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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/765,962	01/19/2001	Seiichi Aoyagi	112857-246	9153

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EXAMINER

NOLAN, DANIEL A

ART UNIT PAPER NUMBER

2654

DATE MAILED: 08/26/2003

10

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/765,962

Applicant(s)

AOYAGI ET AL.

Examiner

Daniel A. Nolan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 July 2003.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 12-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 18-23 is/are allowed.
- 6) ☒ Claim(s) 12-17 and 24-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 January 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 9.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

(Note that this application has been included in **Art Unit 2654**, and that this AU number should be used in all future correspondence.)

2. Because the language of certain claims is written in the manner prescribed to determine the equivalents of the element, as required by 35 U.S.C. 112, 6<sup>th</sup> paragraph, including listing the means in the specification where indicated, the Examiner is proceeding with the understanding that such claims are intended to be examined as "means plus function" claims. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967)

### *Response to Amendment*

3. The filing of 28 July 2003 was applied with the following effect:

- The title was changed and the objection is withdrawn.
- The specification including the abstract has been replaced and the respective objections are withdrawn as satisfied.
- Claims 1-11 were cancelled and all objections and rejections are withdrawn as moot.
- Claims 12-29 are added and examined on the merits.

***Information Disclosure Statement***

4. The information disclosure statement (IDS) submitted on 28 July 2003 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the examiner is considering the information disclosure statement.

***Drawings***

5. The drawings were received on 28 July 2003. These drawings are accepted and the objections are withdrawn as having been satisfied.

***Specification***

6. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

***Claim Objections***

7. Claim 12 is objected to under 37 CFR 1.75 as being a substantial duplicate of claim 24. When two claims in an application are duplicates or else are so close in

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content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

8. In claim 18, the reference to *time* requires study to ascertain that the term is in reference to an *interval, duration, period or length of time* as opposed to the *scheduled time of day*. To prevent future errors of misunderstanding, the reference to *time* in the claim should be modified with an attribute or phrase that makes the reference clear.

#### ***Allowable Subject Matter***

9. Claims 18-23 are allowed.

10. The following is a statement of reasons for the indication of allowable subject matter:

- The present invention is directed to *extracting survey information from conversation*.
- Claim 18 identifies the distinct feature that "*counts a time of speeches on the same topic based on the speech recognition result, and collects the user information based on a counted value*".
- The closest prior art of Cox, Jr. and Hammons et al discloses collecting specific information determined in response to direct queries on the subject, but fails to anticipate or render the above underlined limitations obvious.

11. As allowable subject matter has been indicated, applicant's reply must either comply with all formal requirements or specifically traverse each requirement not complied with. See 37 CFR 1.111(b) and MPEP § 707.07(a).

12. The indicated allowability of claims 6 and 8 is withdrawn in view of the newly discovered reference(s) to Herz et al<sup>257</sup>. Rejections based on the newly cited reference(s) follow.

***Claim Rejections - 35 USC § 103***

17. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Cox, Jr. & Herz et al<sup>257</sup>

18. Claims 12-14 and 24-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cox, Jr. in view of Herz et al<sup>257</sup> (U.S. Patent 5,758,257 A).

13. Regarding claims 12 and 18, in *providing a linguistically competent dialogue with a computerized service representative*, Cox, Jr. reads on every feature of the *information processing apparatus for collecting information regarding a user* in the immediate application as follows:

- Cox, Jr. (the "*utterance recognition*" of column 3 line 60) reads on the feature of a *speech recognizing means for recognizing speeches of the user*;
- Cox, Jr. (14 in figure 1) reads on the feature of a *dialog sentence creating means for creating a dialog sentence* (column 2 lines 32-33) *to exchange a dialog with the user* (column 4 lines 33-35) *based on a result of the speech recognition performed by said speech recognizing means*; and
- Cox, Jr. (column 4 lines 14-16) reads on the feature of a *collecting means for collecting the user information based on the speech recognition result*.
- Where Cox, Jr. is silent on the matter of *accounting or statistical operations*, Herz et al<sup>257</sup> (column 13 lines 29-36) reads on the feature that *counts a number of times the same topic* (as being the equivalent of the *profile* of column 11 lines 31-33) of claim 12 – as well as reading on *the number of appearances that the same topic is included in the speech of the user* of claim 24 – *is included in the speech of the user based on the speech recognition result and collects* (column 42 lines 8-10) *the user*

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*information based on the counted number.* Such practical application of collecting preference and matching service as this would have made it obvious to a person of ordinary skill in the art of speech signal processing at the time of the invention to apply the method/teachings of Herz et al<sup>257</sup> to the device/method of Cox, Jr. so as to assist customers in the selection of products.

14. Regarding claims 13 and 25; the claims are set forth with the same features as claims 12 and 24, respectively. Cox, Jr. (figure 1 items 10-12) reads on the feature of *storing the user information.*

15. Regarding claims 14 and 26; the claims are set forth with the same features as claims 12 and 24, respectively.

Cox, Jr. (figure 1 item 14) reads on the feature that *said dialog sentence creating means outputs the dialog sentence in the form of a text or synthesized sounds.*

### **Cox, Jr. & Von Kohorn**

18. Claims 15-16 and 27-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cox, Jr. in view of Von Kohorn (U.S. Patent 5,916,024 A).

19. Regarding claim 15 and 27; the claims are set forth with the same features as claims 12 and 24, respectively. Cox, Jr. does not deal with the *frequency of words in speech.* Von Kohorn (332 figure 25) reads on the feature that *collects the user*

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*information (column 41 line 65) based on an appearance frequency of a word (column 42 line 65) contained in the speech recognition result (column 18 lines 30-40).*

It would have been obvious to a person of ordinary skill in the art of speech signal processing at the time of the invention to apply the method/teachings of Von Kohorn to the device/method of Cox, Jr. so as to apply the tools developed for amusement gaming to further the marketing interests of those products that sponsors such gaming programs.

20. Regarding claim 16 and 28; the claims are set forth with the same features as claims 12 and 24, respectively. Cox, Jr. does not deal with the *broader terms for a word*. Von Kohorn (column 42 lines 30-32) reads on the feature that *said collecting means collects the user information based on a broader term of a word contained in the speech recognition result*, which would have been obvious to a person of ordinary skill in the art of speech signal processing at the time of the invention to apply the method/teachings of Von Kohorn to the device/method of Cox, Jr. so as to recognize the use of general terms in specifying equivalent or like items.

**Cox, Jr. & Hammons et al**

21. Claims 17 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cox, Jr. in view of Hammons et al (U.S. Patent 6,477,509 B1).

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22. Regarding claims 17 and 29; the claims are set forth with the same features as claims 12 and 24, respectively. While Cox, Jr. maintains a record of the products in use by the customer; it does not further maintain *information indicating interests or taste*. Hammons et al (42 in figure 2) reads on the feature that *the user information is information indicating interests or tastes of the user*, which would have made it obvious to a person of ordinary skill in the art of speech signal processing at the time of the invention to apply the method/teachings of Hammons et al to the device/method of Cox, Jr. so as to improve marketing by *presenting material of interest to the consumer*.

### **Conclusion**

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Medan et al (U.S. Patent 5,530,950 A) audio data processing.
- Herz et al<sup>939</sup> (U.S. Patent 5,835,087 A) generating profiles for a system for customized electronic identification of desirable objects.

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

15. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Daniel A. Nolan at telephone (703) 305-1368 whose normal business hours are Mon, Tue, Thu & Fri, from 7 AM to 5 PM.

If attempts to contact the examiner by telephone are unsuccessful, supervisor Richemond Dorvil can be reached at (703)305-9645.

The fax phone number for Technology Center 2600 is (703)872-9314. Label informal and draft communications as “DRAFT” or “PROPOSED”, & designate formal communications as “EXPEDITED PROCEDURE”. Formal response to this action may be faxed according to the above instructions,

or mailed to:           Box AF  
                                  Commissioner of Patents and Trademarks  
                                  Washington, D.C. 20231

or hand-delivered to: Crystal Park 2,  
2121 Crystal Drive, Arlington, VA,  
Sixth Floor (Receptionist).

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to Technology Center 2600 Customer Service Office at telephone number (703) 306-0377.

Daniel A. Nolan  
Examiner  
Art Unit 2654

DAN/d  
August 22, 2003



Richmond Dorvil  
Primary Examiner